

No. 11897

United States
Circuit Court of Appeals
For the Ninth Circuit

LILLIE T. HOGUE and ELIAS HOGUE,
Appellants,
vs.

TIGHE E. WOODS, Housing Expediter, Office of
the Housing Expediter,
Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Southern District of California
Central Division

FILED

JUN 24 1948

PAUL P. O'BRIEN,

CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

For Appellants:

MARSHALL DENTON, JR.,
3519 S. Central Ave.,
Los Angeles 11, Calif.

For Appellee:

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
SHERMAN GRANCELL,
1206 Santee St.,
Los Angeles 15, Calif. [1*]

*Page numbering appearing at foot of page of original certified Transcript of Record.

In the District Court of the United States, Southern
District of California, Central Division

No. 7094-B

FRANK R. CREEDON, Housing Expediter, Office
of the Housing Expediter,

Plaintiff,

vs.

LILLIE T. HOGUE, ELIAS HOGUE, DOE I,
DOE II,

Defendants.

COMPLAINT FOR TREBLE DAMAGES
AND INJUNCTION

For a First Cause of Action

I.

Plaintiff, as Housing Expediter, Office of the Housing Expediter, brings this action for injunction pursuant to Section 205(a) to enforce compliance with Section 4 and for treble damages on behalf of the United States of America pursuant to Section 205(e) of the Emergency Price Control Act of 1942, as amended, USCA Title 50, App. Sec. 901 et seq., hereinafter referred to as "The Act," and the Rent Regulations (10 Fed. Reg. 13528) issued by the Administrator pursuant to Section 2 of the Act.

II.

Jurisdiction of this action is conferred upon this Court by Sections 205(c) and 205(e) of the Act. [2]

III.

At all times mentioned herein, there has been and now is in effect a Rent Regulation for Housing issued pursuant to Section 2(b) of the Act for the Los Angeles Defense Rental Area.

IV.

That the defendants, Doe I and Doe II, are the fictitious names of the defendants, whose true names are to this plaintiff unknown, and plaintiff asks that when these true names are discovered this complaint may be amended by inserting such true names in the place and stead of such fictitious names. Wherever the word "defendant" is used in this complaint, it shall include all of the defendants individually and collectively herein sued.

V.

That the defendant is a resident of the City of Los Angeles, County of Los Angeles, State of California, in the Southern District of California in the Central Division thereof, and within the jurisdiction of this Court.

VI.

During all times herein mentioned defendant has received rent for the use and occupancy of those certain housing accommodations, subject to said Housing Regulations within said Defense Rental Area, known and described as 337 East 42nd Street, Los Angeles, California.

VII.

That on and since April 1, 1946, exclusive of the period July 1 to July 25, 1946, inclusive, the defendant has received for the use and occupancy of the housing accommodations hereinbefore described, rents in excess of the maximum rents permitted under the said Rent Regulations and Orders of the Rent Director; that the number and names of tenants and the amount of overcharges are facts peculiarly within the knowledge of said defendant; that plaintiff is unable at this time, to allege with certainty the [3] amount of rents charged in excess of said maximum rent but that plaintiff upon ascertaining the amount or amounts thereof, and the names of said tenants, will ask leave to amend this complaint and set forth the amount or amounts of said overcharges and the tenants from whom said overcharges were received.

VIII.

That every tenant overcharged as above alleged has failed to institute an action pursuant to Section 205(e) of said Act, and more than thirty days have elapsed since the occurrence of the violations.

For a Second Cause of Action

I.

Plaintiff re-alleges and incorporates herein Paragraphs III, IV, V, VI and VII of his first cause of action, as though set out in full herein.

II.

In the judgment of the Housing Expediter, Office

of the Housing Expediter, said defendants have engaged in actions and practices in violation of Section 4(a) of the Emergency Price Control Act of 1942, as amended, USCA Title 50, App. Sec. 901 et seq., hereinafter called "The Act," which actions and practices consist of violations of Rent Regulations for Housing (10 Fed. Reg. 13528), issued in accordance with Section 2(b) of "The Act," and therefore, the Housing Expediter brings this action pursuant to the provisions of Section 4(a). Jurisdiction of this action is conferred by Section 205(c) of said Act.

Wherefore, the plaintiff demands:

A. Judgment for the plaintiff to recover of the defendant treble the total amounts received by the defendant from persons as rent for the use and occupancy of the housing accommodations described in the complaint, which were in excess of the maximum rents established by the Act and regulations issued thereunder, and further that;

B. The defendant be ordered and directed to tender to all available tenants as are entitled thereto a refund of all amounts in excess of the maximum rents established by the Act and regulations issued thereunder [4] which were received by the defendant, his agents, employees and attorneys from said persons as rent for the use and occupancy of the housing accommodations described in the complaint, since the date maximum rents were established therefor by said regulations, provided that refunds made by the defendant to such persons, in com-

pliance with the directions of the Court for rents received within one year prior to the bringing of this action, shall be deducted from the amount of the judgment prayed for in the preceding Paragraph "A."

C. A preliminary and final injunction enjoining the defendants, their agents, servants, employees, and all persons in active concert or participation with them from directly or indirectly demanding or receiving, for accommodations subject to said Rent Regulations for Housing, rents in excess of the maximum rent permitted under said Regulations, as heretofore or hereafter amended or extended, or in excess of the maximum rent permitted by any other Regulation for Housing issued pursuant to the Emergency Price Control Act of 1942, as heretofore or hereafter amended or extended.

AUSTIN CLAPP,

ABE I. LEVY,

STEPHEN D. MONAHAN,

By /s/ STEPHEN D. MONAHAN,

Attorneys for Plaintiff.

[Endorsed]: Filed June 5, 1947. [5]

[Title of District Court and Cause.]

BILL OF PARTICULARS

In response to defendants' motion for a Bill of Particulars, plaintiff files the following schedule:

Location of property: 337 East 42nd Street, Los Angeles, California.

Unit No.	Tenant	Period of Occupancy Commencing	Maximum Legal Rent Per Week	Rent Received Per Week	Total Over-Charges
Rm. #2	Willie B. James.....	5/22/45 - 4/ 1/46==45 wks.	\$5.00	\$10.00	\$ 225.00
Rm. #2	Willie B. James.....	4/ 1/46 - 4/ 7/47==41 wks.	5.00	8.50	143.50
Rm. #1					
Front Rm.	Artie Mae Moore.....	11/ 1/44 - 4/ 1/46==73 wks.	5.00	10.00	365.00
Rm. #1					
Front Rm.	Artie Mae Moore.....	4/ 1/46 - 3/ 8/47==37 wks.	5.00	8.50	129.50
Rm. #5					
Rear	Mrs. Eloise Sadler.....	1/ 1/46 - 4/ 1/46==13 wks.	5.00	10.00	65.00
Rm. #5					
Rear	Mrs. Eloise Sadler.....	4/ 1/46 - 3/ 7/47==37 wks.	5.00	8.50	129.50
Back Room	Mrs. Tela Grant.....	12/ 2/45 - 4/ 1/46==21 wks.	5.00	10.00	105.00
Back Room	Mrs. Tela Grant.....	4/ 1/46 - 3/13/47==37 wks.	5.00	8.50	129.50
Rm. #3					
Rear	Miss Louise.....	12/28/45 - 4/ 1/46==13 wks.	5.00	10.00	65.00
Rm. #3					
Rear	Miss Louise.....	4/ 1/46 - 3/13/47==37 wks.	5.00	8.50	129.50
			Total Overcharges		<u>\$1486.50</u>

The maximum rents were not the subject of an Order of the Rent Director.

Respectfully submitted this July 23, 1947.

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,
By /s/ CASSEL JACOBS.

[Affidavit of service by mail attached.]

[Endorsed]: Filed July 23, 1947. [7]

[Title of District Court and Cause.]

ANSWER TO COMPLAINT FOR TREBLE
DAMAGES AND INJUNCTION

Come now Lillie T. Hogue and Elias Hogue, hereinabove named as defendants, and in answer to plaintiff's complaint filed herein, Admit, Deny and Allege:

I.

In answer to Paragraph VII of the alleged first cause of action of said complaint, these defendants deny, generally and specifically, each, all and every allegation, matter, fact and thing therein alleged and the whole thereof.

Answering the Alleged Second Cause of Action of the Said Complaint, Said Defendants Admit, Deny and Allege:

I.

Deny, generally and specifically, the allegations of said Paragraph VII of Paragraph I of the said alleged second cause of [9] action, and the whole thereof.

For a Further, Separate and Distinct Affirmative Defense, Said Defendants Allege:

I.

That under the applicable provisions of the Rent Regulations for Housing, excess rents, collected one year prior to the commencement of the action to recover such alleged overcharge, are not recoverable.

Wherefore, said defendants pray that plaintiff take nothing by reason of his complaint on file herein, and for such other and further relief as may appear just and equitable herein.

/s/ MARSHALL DENTON, JR.,

Attorney for Defendants.

[Affidavit of service by mail attached.]

[Endorsed]: Filed Oct. 6, 1947. [10]

INFORMATION REGARDING HOTELS AND ROOMING HOUSES

Street Address of Property Concerned _____

Landlord's Name _____

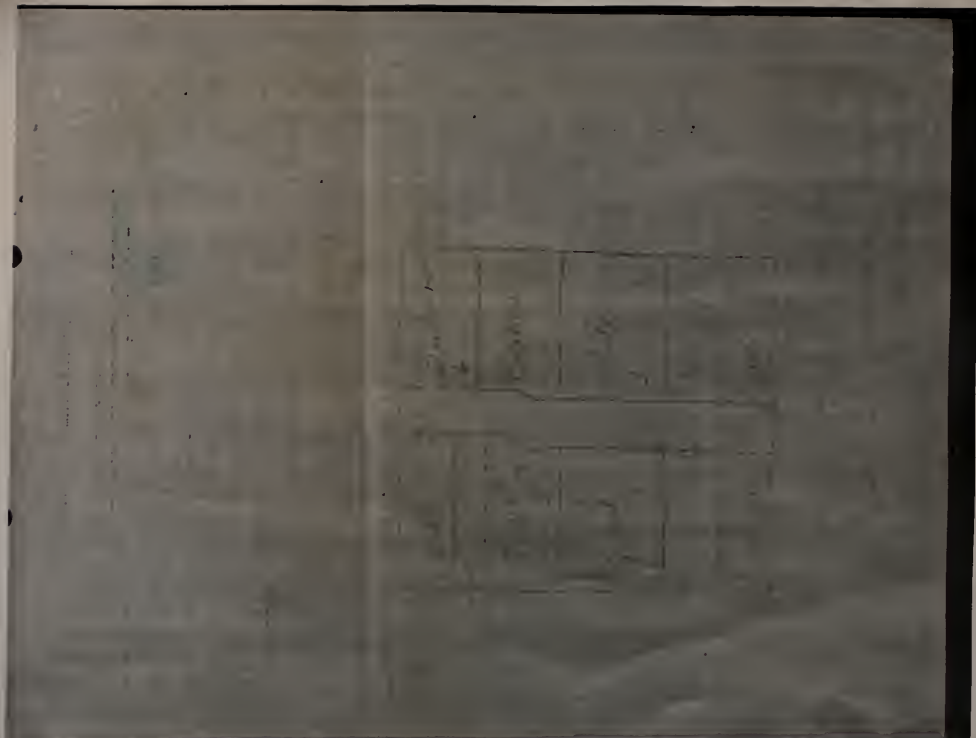
Landlord's Address _____

Telephone _____

1. Has this property ever been registered on a housing form? _____ When? _____
2. Are all of the rooms fully furnished? _____
3. Which of the following does the landlord furnish if included in the rent?
Utilities _____, Linens _____, Laundry _____, Maid Service _____
4. How often are linens and laundry furnished by the landlord? _____
5. How often is maid service given by the landlord? _____
6. Are any of the occupants on the premises related by blood or marriage?
Which rooms do these persons occupy? _____
What is the relation? (blood or marriage) _____
7. How many of the present tenants have lived there for more than 60 days?
How many of the present tenants have lived there for more than three weeks? _____
8. Does the landlord or his agent live on the premises?
If not, where does the landlord live? _____
9. Are cooking facilities provided by landlord? _____. If so, state the kind
Underlines which of the following are provided by the landlord:
STOVE, REFRIGERATOR OR ICE BOX, COOKING UTENSILS, DISHES, SILVERWARE _____
10. How many persons have the right to use these cooking facilities? _____
11. How many baths are located on the premises?
How many toilets are located on the premises? _____
12. What is the approximate ego of property? _____
13. On the reverse side of this sheet the informant should submit a rough floor
plan or diagram of the accommodations showing:
 - (a) Each sleeping room
 - (b) Each bath-room including the connecting doorways
 - (c) Location of kitchen
 - (d) Location of hallways, living room or other
spaces used in common by all tenants.

Name of Person Giving Information _____

Date _____



Mr. A. H. Hays
11/17/17 1947
1/18/47

(11)

FORM APPROVED
 BUDGET BUREAU NO. 10-55 100-21
 FIFTH 1011-D
 LANDLORD'S COPY

UNITED STATES OF AMERICA OFFICE OF PRICE ADMINISTRATION

RECEIVED
 Registration of Hotels, Rooming Houses, Boarding Houses, Dormitories, Auto
 Camps, Residence Clubs, Tourist Homes and Cabins, and Tourist Camps

MAR 4 1947

DEFENSE
 LO-AL
 100-21

(TYPE OR PRINT PLAINLY - DO NOT FOLD)
 Please Read the Instructions Carefully Before Filling
 Out This Registration Statement

REC-1013
 100-21
 100-21

SECTION A - IDENTIFICATION

1. This establishment is a:

- Hotel ☐ Trailer Camp ☐
 Rooming House ☐ Residence Club ☐
 Boarding House ☐ Tourist Home ☐
 Dormitory ☐ Tourist Cabin ☐
 Auto Camp ☐

6. Name of Establishment:

7. Street Address:

8. NAME OF LANDLORD
John F. Hays
 9. 421 E 4th St
 10. STREET ADDRESS
100-21
 CITY AND STATE

2. Total Number of Rooms for Rent: 6

3. Total Number of Occupants

When Fully Rented: 6

4. Total Number of Bathrooms: 1

5. Was the taking of meals required as a condition of renting any room in this establishment on June 15, 1942? Yes ☐ No ☒

11. Did this establishment rent rooms or offer them for rent on March 1, 1942?
 Yes ☒ No ☐

If the answer is "no," on what date did this establishment first offer rooms for rent after March 1, 1942?
October 1942

SECTION B - MAXIMUM LEGAL RENTS FOR ROOMS RENTED OR OFFERED FOR RENT

Note: If the room was actually rented at the rent reported and not merely offered for rent, indicate by placing an "X" in the box after the amount.

If there was only a single rate covering both room and meals, apportion the total charge between a charge for meals and a charge for room rent. The apportionment must be fair and reasonable. ENTER ONLY THE CHARGE FOR ROOM RENT.

1. Are any of the rents entered below apportioned from a single charge for room and meals? Yes ☐ No ☐
 2. Schedule of maximum legal rents.

Room Number-Location	one person	two persons	three persons	one person	two persons	three persons	one person	two persons	three persons
1									
2									
3									
4									
5									
6									

If additional space is required, continue on the back of this sheet.

WARNING

The rates reported in Section B are the Maximum Legal Rents which may be charged. Any charge in excess of those rates, unless previously authorized in accordance with the Maximum Rent Regulation, may subject you to a \$5,000 fine or imprisonment for one year, or both, and to damages payable to the tenant amounting to three times the overcharge, plus attorney's fees. A false statement on this form may subject you to a \$5,000 fine or imprisonment for one year, or both.

I HEREBY REPRESENT that all statements and entries given hereon or attached hereto are true and correct.

Signature of Landlord or Sub Agent

Date

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This cause came on for trial November 17, 1947, before the above entitled Court, the Honorable Ben Harrison, Judge Presiding, Sherman Grancell, Esq., appearing as attorney for the plaintiff, and Marshall Denton, Jr., Esq., appearing as attorney for the defendants; evidence both oral and documentary having been introduced by the plaintiff and the defendants, and the cause having been submitted, the Court now makes the following:

FINDINGS OF FACT

1. That plaintiff, as Housing Expediter, Office of the Housing Expediter, brings this action for injunction pursuant to Section 205(a) to enforce compliance with Section 4 and for treble damages on behalf of the United States of America pursuant to Section 205(e) of the Emergency Price Control Act of 1942, as amended, USCA Title 50, App. Sec. 901 et seq., hereinafter referred to as "The Act," and the Rent Regulations (10 Fed. Reg. 13528) issued by the Administrator pursuant to Section 2 of the Act. [18]

2. That jurisdiction of this action is conferred upon this Court by Sections 205(c) and 205(e) of the Act.

3. That at all times mentioned herein, there has been and now is in effect a Rent Regulation for Housing issued pursuant to Section 2(b) of the Act for the Los Angeles Defense Rental Area.

4. That the defendants are residents of the City of Los Angeles, County of Los Angeles, State of California, in the Southern District of California, in the Central Division thereof, and within the jurisdiction of this Court.

5. That during all times herein mentioned defendants have received rent for the use and occupancy of those certain housing accommodations, subject to said Housing Regulation within said Defense Rental Area, known and described as 337 East 42nd Street, Los Angeles, California.

6. That since June 6, 1946, exclusive of the period July 1 to July 25, 1946 inclusive, defendants have received for the use and occupancy of the housing accommodations hereinabove described, rents in excess of the maximum rents permitted under the said Rent Regulations and Orders of the Rent Director; that the number and names of tenants and the amount of overcharges are as follows:

Tenant's Name	Period of Time	Rent Paid Per Week	Maximum Legal Rent	Over-charge
Willie B. James.....	6/6/46 - 4/ 7/47	\$8.50	\$5.00	\$112.00
Artie Mae Moore.....	6/6/46 - 3/ 8/47	8.50	5.00	98.00
Eloise Sadler	6/6/46 - 3/ 7/47	8.50	5.00	98.00
Tela Grant	6/6/46 - 3/13/47	8.50	5.00	101.50
Total Overcharges				\$409.50

7. That every tenant overcharged as above alleged has failed to institute an action pursuant to Section 205(e) of said Act, and more than thirty days have elapsed since the occurrence of the violations.

8. That defendants have engaged in and are continuing to engage in actions and practices in violation of Section 4(a) of the Emergency Price Control Act of 1942, as amended. [19]

9. That the violations hereinbefore set forth were wilful.

From these findings of fact, the Court now makes the following

CONCLUSIONS OF LAW

1. That plaintiff is entitled to have judgment against the defendants in the sum of \$409.50.

2. That the defendants are ordered to tender refunds to the tenants named in Paragraph 6 in the amounts set forth in said paragraph through the office of the plaintiff.

3. That the plaintiff is entitled to an injunction against the defendants as prayed for in the complaint.

4. That the action is not barred by the statute of limitations.

Dated at Los Angeles, California, this 26th day of November, 1947.

/s/ BEN HARRISON,
Judge United States
District Court.

Approved:

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
SHERMAN GRANCELL,
By /s/ SHERMAN GRANCELL,
Attorneys for Plaintiff.

Approved:

MARSHALL DENTON, JR.,
Attorney for Defendants.

[Affidavit of service by mail attached.]

[Endorsed]: Filed Dec. 1, 1947. [20]

In the District Court of the United States for the
Southern District of California, Central Division
No. 7094-B

TIGHE E. WOODS, Housing Expediter, Office of
the Housing Expediter,
Plaintiff.

vs.

LILLIE T. HOGUE, ELIAS HOGUE, DOE I
and DOE II,
Defendants.

JUDGMENT, ORDER AND DECREE

This cause having come on for trial November

17, 1947 before the above entitled Court, the Honorable Ben Harrison, Judge Presiding, Sherman Grancell, Esq., appearing as attorney for the plaintiff, and Marshall Denton, Jr., Esq., appearing as attorney for the defendants, evidence both oral and documentary having been adduced by the plaintiff and the defendants, and the cause having been submitted; the Court having made its findings of fact and conclusions of law, it is hereby:

Ordered, Adjudged And Decreed:

1. That plaintiff have judgment against the defendants in the sum of \$409.50.
2. That the defendants are ordered to tender refunds to the following named tenants in the following sums, through the office of the plaintiff.

Willie B. James, \$112.00

Artie Mae Moore, \$98.00

Eloise Sadler, \$98.00

Tela Grant, \$101.50

3. That the defendants, their agents, servants, employees, and all persons in active concert with them are enjoined from demanding rent in excess of the sum of \$5.00 per week for each of the rooms located in the housing accommodations at 337 East 42nd Street, Los Angeles, California, unless and until such time as the maximum legal rent of said rooms is increased by the Office of the Housing Expediter, through proper orders or authorizations.

4. That the defendants, their agents, employees and all persons in active concert with them are further enjoined from otherwise violating the Housing and Rent Act of 1947, and the Controlled Housing Rent Regulation issued pursuant to said Act as said Act and Regulation now exists or as they may be hereafter amended or extended.

Dated: November 26, 1947.

/s/ BEN HARRISON,

Judge United States

District Court.

Approved:

ABE I. LEVY,

STEPHEN D. MONAHAN,

FRANK L. HIRST,

SHERMAN GRANCELL.

By /s/ SHERMAN GRANCELL.

MARSHALL DENTON, JR.,

Attorney for Defendants.

[Endorsed]: Filed. Judgment entered and Docketed Dec. 1, 1947., Book C. O. 47, Page 161.

[Affidavit of service by mail attached.] [23]

[Title of District Court and Cause.]

NOTICE OF APPEAL

To Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, Central Division:

Notice Is Hereby Given that Lillie T. Hogue and Elias Hogue, defendants herein, hereby appeal to the Circuit Court of Appeals for the Ninth Circuit, from the final judgment and the whole thereof entered in this action on the 1st day of December, 1947.

/s/ MARSHALL DENTON, JR.,
Attorney for Defendants,
Lillie T. Hogue and
Elias Hogue.

[Endorsed]: Filed and mailed copy to Abe I. Levy, attorney for plaintiff, Jan. 30, 1948.

[Title of District Court and Cause.]

STATEMENT OF POINTS ON APPEAL

Following is a statement of the only point relied upon by defendants and appellants on Appeal:

Is a rent ceiling Order of the Housing Expediter, which fixes a rent ceiling of \$5.00 per week, for a room occupied by one (1) tenant, for living purpose, violated where the landlord charges and collects more than \$5.00 per week, when such room is occupied by more than one (1) tenant?

/s/ MARSHALL DENTON, JR.,
Attorney for Defendants
and Appellants.

[Affidavit of service by mail attached.]

[Endorsed]: Filed March 27, 1947. [26]

[Title of District Court and Cause.]

DESIGNATION OF RECORD ON APPEAL

To the Honorable District Court of the United
States for the Southern District of California:

Lillie T. Hogue and Elias Hogue, defendants and
appellants herein, hereby designate the following
matters and proceedings be included in the Record
on Appeal herein:

1. The Complaint.
2. The Answer.
3. All Oral testimony, whether admitted or re-
jected.
4. All Exhibits offered or admitted into evidence.
5. Findings of Fact and Conclusions of Law.
6. The Judgment.
7. The Notice of Appeal.

/s/ MARSHALL DENTON, JR.,

Attorney for Defendants
and Appellants.

[Affidavit of service by mail attached.]

[Endorsed]: Filed March 27, 1947.

[Title of District Court and Cause.]

AFFIDAVIT OF MARSHALL DENTON, JR.,
IN SUPPORT OF EX-PARTE MOTION
FOR EXTENSION OF TIME TO FILE
RECORD ON APPEAL

State of California,
County of Los Angeles—ss.

Marshall Denton, Jr., being first duly sworn,
deposes and says:

That affiant herein is the Attorney of Record
for Lillie T. Hogue and Elias Hogue, defendants
and appellants in the above-entitled matter.

That Notice of Appeal was filed herein on Janu-
ary 30th, 1948.

That the time for filing the Record on Appeal
herein expires on March 10th, 1948, unless extended
by an order of the above-entitled court.

That since the filing of the said Notice of
Appeal, affiant herein has been unable to fully
complete the said record because of almost continu-
ous court trials; that said affiant has no legal part-
ner or associate and therefore has to devote his
personal attention to all legal matters in said
affiant's office.

That said affiant believes and therefore alleges
that he will be [30] able to complete, file and serve
said record in time for the same to be ready for
filing on or before April 1st, 1948, and for such
purpose said affiant believes it to be equitable and
just that an order of this court issue extending the

time herein for the aforesaid purpose to April 1st, 1948.

Wherefore, affiant respectfully prays for an Order of Court extending the time for filing the Record on Appeal herein to April 1st, 1948, and for such other and further relief as may appear just and equitable herein.

/s/ MARSHALL DENTON, JR.,
Affiant.

Subscribed and sworn to before me this 10th day of March, 1948.

[Seal] /s/ STELLA WOOD,

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires April 30, 1948.

[Endorsed]: Filed March 10, 1948. [31]

[Title of District Court and Cause.]

ORDER EXTENDING TIME FOR FILING
RECORD ON APPEAL

Having read the sworn affidavit of Marshall Denton, Jr., Esq., Counsel for Appellants in the above-entitled matter, and good cause appearing therefor,

It Is Hereby Ordered that the time for filing the Record on Appeal herein be and is hereby extended to April 1st, 1948.

Dated: At Los Angeles, California, this 10th day of March, 1948.

/s/ C. E. BEAUMONT,

Judge of the District Court of the United States
for the Southern District of California.

[Endorsed]: Filed March 10, 1948. [32]

[Title of District Court and Cause.]

AFFIDAVIT OF MARSHALL DENTON, JR.,
IN SUPPORT OF EX-PARTE MOTION
FOR EXTENSION OF TIME TO FILE
RECORD ON APPEAL

State of California,
County of Los Angeles—ss.

Marshall Denton, Jr., being first duly sworn, deposes and says:

That affiant herein is the Attorney of Record for Lillie T. Hogue and Elias Hogue, defendants and appellants in the above-entitled matter.

That Notice of Appeal was filed herein on January 30th, 1948.

That heretofore an Order was made extending time for filing the Record on Appeal herein to April 1st, 1948.

That efforts have been made herein to use an agreed statement of the case in lieu of a transcript of the testimony; that after the preparation, by affiant, of such proposed agreed statement and the submission thereof to plaintiff herein, for consid-

eration and signature, it was discovered that Sherman Grancell, Esq., counsel who represented plaintiff at the trial of the above-entitled cause [33] was no longer in the service of the government of the United States, hence said statement could not be agreed upon and it has now become necessary to request a preparation of the transcript by the shorthand reporter who recorded the proceedings; that affiant has been informed and believes and therefore alleges that said transcript and copy will be ready on or about April 8th, 1948.

That an extension of time herein to April 30th, 1948, will be adequate to complete the record on appeal herein.

Wherefore, affiant respectfully prays for an Order of Court extending the time for filing the Record on Appeal herein to April 30th, 1948, and for such other and further relief as may appear just and equitable herein.

/s/ MARSHALL DENTON, JR.,
Affiant.

Subscribed and sworn to before me this 31st day of March, 1948.

[Seal] /s/ STELLA WOOD,
Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires April 30, 1948.

[Endorsed]: Filed April 1, 1948. [34]

[Title of District Court and Cause.]

ORDER EXTENDING TIME FOR FILING
RECORD ON APPEAL

Having read the sworn affidavit of Marshall Denton, Jr., Esq., Counsel for Appellants in the above-entitled matter, and good cause appearing therefor,

It Is Hereby Ordered that the time for filing the Record on Appeal herein be and is hereby extended to April 15th, 1948. J.W.

Dated: At Los Angeles, California, this 1st day of April, 1948.

/s/ JACOB WEINBERGER,
Judge of the District Court of the United States
for the Southern District of California.

[Endorsed]: Filed April 1, 1948. [35]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 35, inclusive, contain full, true and correct copies of Complaint for Treble Damages and Injunction; Bill of Particulars; Answer to Complaint for Treble Damages and Injunction; Plaintiff's Exhibit No. 1; Defendants' Exhibit A; Findings of Fact and Conclusions of Law; Judgment, Order and Decree; Notice of Appeal; Statement of Points on Appeal; Designation of Record

on Appeal and two Affidavits for Extension of Time to File Record on Appeal and Orders Extending Time which, together with copy of reporter's transcript of proceedings on November 17, 1947, transmitted herewith, constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing record amount to \$9.90 which sum has been paid to me by appellants.

Witness my hand and the seal of said District Court this 13th day of April, A.D. 1948.

[Seal]

EDMUND L. SMITH,
Clerk.

By /s/ THEODORE HOCKE,
Chief Deputy.

In the District Court of the United States, Southern
District of California, Central Division

No. 7094-B

FRANK R. CREEDON, Housing Expediter, Office
of the Housing Expediter,

Plaintiff,

vs.

LILLIE T. HOGUE, ELIAS HOGUE, DOE I,
DOE II,

Defendants.

REPORTER'S TRANSCRIPT OF
PROCEEDINGS

Los Angeles, California

November 17, 1947

Appearances:

For the Plaintiff: Austin Clapp, by Sherman
Grancell, 1206 Santee Street, Los Angeles, Cali-
fornia.

For the Defendants, Hogue: Marshall E. Denton,
Jr., 3519 South Central Avenue, Los Angeles, Cali-
fornia. [1*]

The Clerk: 7095-B, Civil. Frank Creedon vs.
Lillie T. Hogue, et al.

Mr. Grancell: Ready for the plaintiff.

Mr. Denton: Defendant is ready, your Honor.

The Court: What facts can you gentlemen stip-
ulate to?

* Page numbering appearing at top of page of Reporter's certified
Transcript of Record.

Mr. Grancell: First, I would like to move for the substitution of Tighe E. Woods, instead of Frank R. Creedon.

Mr. Denton: I have no objection to the motion.

Mr. Grancell: I don't know whether we can reach any stipulation as to the amount of rent paid. Have you any suggestion along that line? We served a Bill of Particulars in this case.

The Court: As I understood counsel in chambers the other day there is no dispute as to the ceilings.

Mr. Denton: Not at all, your Honor.

The Court: The dispute is as to amount.

Mr. Denton: If the Court permits me, I think I can clarify that and cut this thing pretty short.

The Court: Yes.

Mr. Denton: We will stipulate that this defendant here has for the period during which the various parties named in the complaint—not in the complaint, but in the more definite statement, Bill of Particulars—we don't have the exact date [2] of occupancy of these different tenants named in the Bill of Particulars. We will stipulate for the period of time that Willie B. Jones, Artie Mae Moore and Mrs. Eloise Sadler, named in the Bill of Particulars, during the time they were in possession and were tenants of this defendant here—and also Tela Grant on page 2—this defendant did collect \$10.00 per week and \$8.50 per week, respectively.

The exact period of time over which these various rents were paid by these individuals we don't have now.

The Court: How about this Miss Louise?

Mr. Denton: I was going to call the Court's attention to that. This Miss Louise named at Room No. 3 is the same party as Eloise Sadler appearing on page 1, as occupying Room No. 5.

Mr. Grancell: I think counsel probably is correct in that. At least, we haven't been able to find anybody by the name of Miss Louise.

Mr. Denton: The only issue here is we have here a copy of the rent registration as of March 1, 1947, showing these premises to have been registered. I assume counsel has the original of this. I will be glad and happy to let him see our copy in which the ceiling provided Rooms 1 to 6, inclusive,—perhaps I should break it down. In Room No. 1 it says \$5.00, and they have a pencil mark drawn through that amount.

Then we jump down to Room 6. They have \$4.00, and they have a lead pencil mark through that. [3]

As to Rooms Nos. 2, 3, 4 and 5, it shows a ceiling of \$5.00 per week *for* person.

Our position is these rents were collected but instead of being one person in the room here, the rent collected was based upon an occupancy in each room by people in excess of the one. That is our sole defense here.

Mr. Grancell: If your Honor please, concerning the maximum rent, the reason why, as to Rooms Nos. 1 and 6, the original shows the——

The Court: You have not anything on Room No. 6 in this Bill of Particulars.

Mr. Denton: There is none in the Bill of Par-

ticulars; just on the registration. That wouldn't be an issue.

Mr. Grancell: As to Room No. 1, you will notice the notation on your copy there "on DDU," and that means there is a separate individual registration filed for that room No. 1, which I have here. It shows that the maximum rent for that room is the same, \$5.00 per week.

Mr. Denton: Was that in excess of more than the one person?

Mr. Grancell: There is no indication on this original registration as to the number of persons.

Now, if counsel will agree to that fact, that that maximum rent for that Room No. 1 is \$5.00 per week, then we can get to this question as to the occupancy proposition. [4]

Now, I am assuming that the amount of rents collected will not be subject to proof. In carrying this argument forward here, I think we might, by stipulation, introduce the original registration so the Court will have those before it, while we discuss this.

Are you willing to stipulate to the introduction of the registration?

Mr. Denton: I have no objection.

Mr. Grancell: We offer these in evidence as plaintiff's Exhibit 1.

Mr. Denton: Along with that stipulation, to admit those records, may we state in that connection here that the only copy or notice this defendant has had of this registration is the copy we have here which I have shown to counsel and on which ap-

peared the information I read to the Court in my opening statement.

Mr. Grancell: I think that your copy is correct. You are probably referring to the provision in No. 3 of the main registration form, the large one on which all the units are located. The total number of occupants when fully rented is what you are referring to?

Mr. Denton: Yes.

Mr. Grancell: As six?

Mr. Denton: Yes.

The Court: What would be the effect of the registration [5] for one person and their being no rates fixed for more than one? Take, for instance, Room No. 1.

Mr. Grancell: I submit to the Court that under the regulation the defendant in this case has the same right that every other person has, every other landlord where there is an increased occupancy, to petition for increased rent, based on that increased occupancy. That is covered by the rent regulation for housing in existence at the time of the violation here involved, the 10FR-13A-528 Section here, on grounds for petitions for increase of rent.

The Court: You have three tenants involved, have you not?

Mr. Grancell: Yes, sir, your Honor. Actually, there are four. I think you also—how about Moore? I think you also—

Mr. Denton: Your Honor, may I comment on

counsel's reply to the Court's query with reference to if there is no other—

Mr. Grancell: Let me cover it.

Mr. Denton: I thought you were through. Pardon me.

Mr. Grancell: Section 5, which is as to adjustments and other determinations—if the Court will pardon me just a second I will locate this paragraph.

Section 5, A(8), "Substantial increase in occupancy." The paragraph reads as follows:

"There has been, since the maximum rent date, either 1, a substantial increase in the number of subtenants or other persons occupying the accommodations or a part thereof, under a rental agreement with the tenant, or

"2. A substantial increase in the number of occupants in excess of normal occupancy for that class of accommodations on the maximum rent date, or

"3. An increase in the number of occupants over the number contemplated by the rental agreement on the date determining the maximum rents where the landlord on that date had a regular and definite practice of fixing different rents for the accommodations for different numbers of occupants."

If any one of those things occur under this Section 5 the landlord has the right to petition for an increased rent, and as a result of such petition an occupancy order may be issued permitting a rent increase of, say \$2.00 or \$2.50 or \$5.00 per week

for each additional person in excess of a certain number. Failing to do that, I submit to the Court the landlord is bound by the maximum rent set forth in the registration.

The Court: Now, counsel, were you claiming for more than one? Four in all?

Mr. Denton: Yes. Not only the rooms in issue, but every one involved. The citation of the section counsel referred to has to do with dwellings and apartments. That section has nothing to do with an apartment, a dwelling or a room wherein the O.P.A. or the Rent Director has fixed by a definite order the maximum rent for specified number of persons.

Here on this regulation, a copy of which I have shown [7] counsel, they have provisions printed there to take care of two, three, up to three people in an individual room. If we agree with counsel here that he can come in, upon a complaint, and allege a violation based upon a specific order, and then point out to the Court since there is a possibility of this defendant having a definite rate fixed for a number in excess of that set forth in the order, and that constitute a violation, I cannot agree with him.

We are here upon an alleged definite violation. We have an order wherein the Director has fixed the definite amount of rent for one occupant. It is my view, in order to attempt to hold this defendant for a violation, there must be an order. If we can support our position, if there was an occupant in excess of one in each room, we must first bring into this Court an order that has been made by the

Rent Director, establishing a rental ceiling for the number of the particular occupants of that room, and showing this defendant has overcharged for that particular number of occupants.

The Court: Well, counsel, this is an action in equity, is it not?

Mr. Grancell: It is both equitable and an action at law. It is an action at law for treble damages.

The Court: Recovery for one year. It is for one year. This action was all within one year. An equitable action to recover for more than one year? [8]

Mr. Grancell: That is right. As far as the restitution features are concerned, that is an equitable action.

The Court: You will have to go back to 1945.

Mr. Grancell: Well, that is true. You are correct in that.

The Court: As a matter of fact, the action was not filed until July 23rd.

Mr. Grancell: The action was filed June, 1947.

The Court: To a marked extent these are within the one-year period. There is only a small amount in the one-year period.

Mr. Grancell: That is right.

The Court: Now, equitable powers, if it would appear to be an order for one tenant, and two or three people occupied the room, I would consider it unfair. I was just wondering if you people could not agree on amounts here and both give and take. What is your attitude?

Mr. Denton: Well, I don't know in that particular, your Honor. I might state this fairly to the

Court: I came into Court to do the right thing. These people—this was formerly their home and they moved out from the same facilities they enjoyed, which were nice, Frigidaires and linen and what have you went with it. There have been two people, sometimes three before trying to charge \$10.00 a week. Before the action was contemplated to be brought, they reduced the rent with the same people there.

The Court: I am inclined to believe that counsel for the government is correct. When an order is made for one person, if you add more than one person, then the burden is shifted to the landlord to get a readjustment of the rent.

I have here on one side a question of law and on another side a question of equity. This landlord, when he had more people in there than indicated, had a duty. It seems to me that the parties themselves might do a better job in this matter than the Court. Whatever the Court does is going to have to be arbitrary, in a sense.

Mr. Denton: The only thing I might suggest is to ask leave of the Court for a short recess and to talk to counsel for the government and see what we can arrive at.

The Court: If I have to determine how many people should be in these rooms, it will not take me long to determine it.

Mr. Grancell: I think if we take a few minutes' recess, your Honor, we may be able to wind this up.

The Court: Maybe this party cannot stand such an exorbitant amount as you ask.

Mr. Grancell: We are willing to talk.

The Court: We will take a 10-minute recess.

(Short recess taken.)

The Court: All right, gentlemen.

Mr. Grancell: Your Honor, we were unable to reach a [10] settlement. We were unable, as a matter of fact, to even reach a stipulation on the overcharges involved. We will have to prove our case.

I will call the defendant under Rule 43-B.

E. H. HOGUE

a witness called by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination

The Clerk: Will you state your name?

The Witness: Reverend E. H. Hogue.

Q. (By Mr. Grancell): Reverend Hogue, do you own the property at 337 East 42nd Street, in the City of Los Angeles? A. I do.

Q. Now, how long have you owned that property? A. Since '41.

Q. Since 1941? A. Since '41, 1941.

Q. Now, in May, or on May 22, 1945, you rented Room No. 2 to Willie B. James, did you not?

A. It wasn't any number on the room. I don't know what room—there wasn't any number on the rooms at all.

Q. That was a room that—was that a front room or a rear room?

A. I think it was a side room, I believe. It

(Testimony of E. H. Hogue.)

wasn't a [11] front room. They moved out of one room to the other.

Q. Now, you rented that to James at \$10.00 a week, did you not?

A. Yes, her and her husband.

Q. You collected \$10.00 a week from James up until April 1, 1946, did you not?

A. I didn't keep an account of just how long it was.

Q. Was it about the first of April of 1946?

A. April or March, somewhere along there. I don't know just how long it was. I didn't keep an account of it.

Q. Would you say that date is approximately correct? A. What say?

Q. Would you say that date is approximately right, April 1, 1946?

A. Could be or could not be; I don't know whether it is right or not.

Q. After that you collected \$8.50 from that tenant, did you not?

A. From the two in that room, whatever room they were in. They didn't stay in any particular room, when one moved out, somebody changed.

Q. You collected \$8.50 from James up to April 7, 1947, when they moved out, isn't that correct?

A. April 7th?

Q. Yes. [12]

A. I didn't keep account of when she moved out. She did move out sometime in the Spring, after this happened.

(Testimony of E. H. Hogue.)

Q. Was it around the first part of April?

A. Somewhere along there.

Q. 1947?

A. I don't know the date. I didn't keep up with it.

Q. Artie Mae Moore, you rented a front room No. 1 to Artie Mae Moore on or about November 1, 1944, did you not?

A. She wasn't there then. She didn't live in that room. It is numbered 1 now, but she didn't live in that room.

Q. A front room. Don't bother about the details.

A. She didn't live in that room until sometime last Fall.

Q. You rented a room to Artie Mae Moore in November, 1944?

A. Yes, to her and her husband.

Q. At \$10.00 a week?

A. Yes, for her and her husband.

Q. You collected \$10.00 a week from Artie Mae Moore from November, 1944 to April, 1946, did you not, \$10.00 per week?

A. 1946? I disremember. I don't think it was that long, but I am not positive. I didn't keep account of how long it was.

Q. From April, 1946 to March 8, 1947, isn't it a fact that you collected \$8.50 per week from Artie Mae Moore?

A. I collected \$8.50 a week for her and her husband for that time. [13]

(Testimony of E. H. Hogue.)

The Court: How many people were occupying the room with Willie B. James?

The Witness: That is her and her husband.

The Court: There were two there?

The Witness: Yes.

The Court: Do you have any record when they moved in or when they moved out?

The Witness: No, I have no record. I didn't keep no kind of records when they moved in. Whenever they paid me, that was through for that week. I didn't even give a receipt or nothing. I didn't have no record of when they moved or just when they moved in.

Q. (By Mr. Grancell): Now, as to both Willie B. James and the husband, or wife there, you say the couple were in there all the time, were they not?

A. Yes.

Q. All the time from the time you first rented the place? A. Yes.

Q. The same is true of Artie Mae Moore, that couple was there, both husband and wife, all the time?

A. They were there all the time. He was on the road, of course, but you know how that was.

Q. They were both there all the time?

A. Yes.

Q. Mrs. Eloise Sadler, did you rent Room No. 5 or a rear [14] room to Mrs. Eloise Sadler about November 1, 1946?

A. Like I said, I don't know how long it was. I did rent her the room for her and her husband.

(Testimony of E. H. Hogue.)

Q. At \$10.00 per week?

A. For a while they did have it for \$10.00.

Q. Was that January 1, 1946, when the Sadlers moved in?

A. Well, I am not certain. I don't know just how long. Sometime during last year, I don't know what time. I didn't keep a record of it.

Q. Now, from April 1, 1946, to March 7, 1947, did you collect \$8.50 per week from Mr. and Mrs. Sadler?

A. Yes, I did.

Q. Both Mr. and Mrs.?

A. I don't know the length of time, but I did.

Q. The couple were both there, Mr. and Mrs. Sadler, according to you, were in there all the time?

A. Why, sure.

Q. Mrs. Tela Grant, did you rent a back room to Tela Grant on or about December 2, 1945?

A. Well, I don't know what date it was. I rented it to her and her daughter.

Q. For her and her daughter?

A. Yes. Otherwise, there was somebody else there part of the time.

Q. At \$10.00 a week? [15]

A. Yes.

Q. Did you collect \$10.00 per week from Mrs. Tela Grant until April 1, 1946?

A. I reckon. I don't know what date it was. I didn't keep up with the dates of it. I collected \$10.00 for a while.

Q. You collected \$8.50 from Mrs. Grant after April 1, 1946 to March 13, 1947, did you not?

A. Somewhere along that time, for the two.

(Testimony of E. H. Hogue.)

The Court: What happened when you reduced all these rents to \$8.50?

The Witness: Some of them were complaining, said their jobs wasn't so good. I felt like I could help some by reducing their rent.

The Court: You knew you were charging over the ceiling, didn't you?

The Witness: No. I knew I could charge \$5.00 for one, and I didn't have nothing else. I just decided it would be right to get that much for two.

The Court: How about Mrs. Louise?

The Witness: That is the same one.

The Court: Was she alone?

Mr. Grancell: I think, if your Honor please, that Mrs. Louise is Eloise Sadler. I think our office got that a little mixed up.

The Court: Do you want that eliminated? [16]

Mr. Grancell: Yes, we will eliminate that. Shall I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Grancell): Mrs. Grant and her daughter—was her daughter with her all the time while she was living in that place? A. Yes.

Q. They were both there when you rented the room to them? A. Yes.

Q. What is your business or occupation, Reverend Hogue?

A. I haven't worked for anybody in a couple of years. I was too old, nobody wanted me.

Q. What was your occupation before that?

A. I worked at North American while the war was going on for 18 months.

(Testimony of E. H. Hogue.)

The Court: North American?

The Witness: Aviation.

Q. (By Mr. Grancell): Now, Reverend, I show you plaintiff's Exhibit 1 and ask you if this is your signature on each one of these documents here (indicating). Would you check these and take a look at them and see if that is your signature?

Reverend Hogue, are those your signatures on each one of those documents? A. Yes. [17]

Q. I call your attention to this first document, Form D, which is stamped "Received March 4, 1947. Los Angeles Defense-Rental-Area," and ask you if you filed this document with the Los Angeles Defense-Rental-Area office on or about March 4, 1947?

A. I didn't know——

The Court: That is stipulated to, is it not?

Mr. Denton: Yes.

Mr. Grancell: The introduction of the document was stipulated to. I wanted to get this date before the Court specifically.

Mr. Denton: The documents speak for themselves.

Mr. Grancell: I am asking him when he filed it, if he filed it about that day.

Mr. Denton: The Court inquired about it.

The Court: The record speaks for itself.

Q. (By Mr. Grancell): At the time you filed this DH-D form, the first one of these, in which you set forth these rents, \$5.00 for each one of these rents and \$4.00 for the last, Room 6, at that time

(Testimony of E. H. Hogue.)

each one of these rooms, according to your testimony was being occupied by two or more people?

A. Yes.

Q. You did not specify in here a rate for two or three people, did you? A. I didn't—

Mr. Denton: Just a moment, your Honor please. I believe regardless of what this witness may or may not have specified, if he furnished information to the Rent Director's Office and a registration was made, we have the document. Whatever the contents of those documents show, I think we are bound by them, so far as the registration is concerned. What this man may have said or may not have said is immaterial, unless it is embodied in there.

The Court: The only thing, if there were two people in there he should have registered for two people and had the rent fixed for two people.

The Witness: If you will allow me to say, I would have registered—they wouldn't let me register it. They said I had to register one. They wouldn't let me register. I told them about it. And I didn't register until then.

Q. (By Mr. Grancell): Do you know who that person was you talked to?

The Court: I do not care about that.

Q. (By Mr. Grancell): Have any of these people brought any separate action against you for the recovery of damages?

A. No, they have not.

Mr. Grancell: No further questions.

(Testimony of E. H. Hogue.)

Cross-Examination

By Mr. Denton:

Q. These papers, Reverend Hogue, which counsel for the [19] government has shown you, with the exception of the signature appearing on the bottom thereof, is the rest of this in your handwriting (indicating)? A. That is my name.

Q. I am asking, is anything else on any of these sheets other than the signature appearing down at the bottom thereof in your handwriting?

A. Nothing.

Q. Who filled these out for you?

A. I don't know who it was.

Q. Where were they filled out?

A. Over in the O.P.A. office.

Q. Someone in the O.P.A. office? A. Yes.

Q. You furnished them the information?

A. Yes.

Q. At the time they filled it out you gave them the information and someone down there wrote it out? A. Yes.

Q. Do we understand from your testimony that you said you endeavored to register these rooms for more than one occupant? Tell us what you did in making that effort.

A. I told them there was more than one and I felt like I ought to register them for more than \$5.00.

Q. We are talking about the number of people. Did you [20] tell them how many people there were there?

(Testimony of E. H. Hogue.)

A. And for the number of people in the room, because the room was for—registered. I was willing at any time when there was one person in there to rent it for \$5.00.

Q. I show you a piece of paper on which the name Elias H. Hogue appears on the bottom thereof, and at the top of this piece of paper there appears “United States of America, Office of Price Administration, Landlord Copy,” and stamped with a rubber stamp, what appears to be a rubber stamp thereon is “Received March 4, 1947, Los Angeles-Defense-Rental-Area.” I will ask you if you have ever seen that particular paper before today?

A. Yes, I have.

Q. How did you come in possession of this document which I am showing you?

A. Come by mail.

Q. Addressed to you?

A. Addressed to me.

Q. Now, in connection with the renting of the particular property involved in this case, have you at any time ever received any paper other than this from the Rental Director's Office?

A. None that I know anything about.

Mr. Denton: May we offer this, your Honor, at this time, if the Court please? [21]

Mr. Grancell: Just the document?

The Court: It will be marked in evidence.

The Clerk: Defendant's A.

(Thereupon the document above-referred to was marked Defendant's Exhibit A and was received in evidence.)

(Testimony of E. H. Hogue.)

Mr. Denton: No further questions.

Redirect Examination

By Mr. Grancell:

Q. Reverend Hogue, you say that this defendant's Exhibit A, these registrations were filled out in the Office of Price Administration by a clerk there, is that right, and you signed them?

A. I don't know whether it was a clerk or who it was. I signed them; a lady did it.

Q. A lady did it? A. Yes.

Q. Did you read those papers at the time, before you signed them?

A. I didn't have any glasses and I couldn't see it, and I didn't read them.

Q. Are you accustomed to signing things before you read them?

The Court: That is argumentative.

Mr. Denton: Objected to, your Honor; it is argumentative.

The Court: Objection sustained. [22]

Mr. Grancell: No further questions.

The Court: Step down, please.

(Witness excused.)

Mr. Grancell: Willie B. James.

WILLIE B. JAMES

a witness called by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination

The Clerk: Will you state your name?

The Witness: Willie B. James.

The Clerk: Take the stand.

By Mr. Grancell:

Q. Mrs. James, will you please speak loudly, so we can all hear you? A. Yes.

Q. Did you rent a room from Reverend Hogue, the defendant in this action, on or about May 22, 1945? A. Yes, I did.

Q. What room was that?

A. It was the rear room.

Q. What address?

A. 337 East 42nd Street.

Q. To whom did you pay rent for that room?

A. To his wife and himself, Reverend Hogue and Mrs. Hogue.

Q. How much rent did you pay? [23]

A. \$10.00 a week.

Q. For how long a period of time?

A. From May 22nd up until '46 I paid \$10.00, and then he cut from \$10.00 to \$8.50.

The Court: That is May 22, 1945, until when?

The Witness: '47; this is '47.

Q. (By Mr. Grancell): Wait a minute. When you paid \$10.00 per week, that was from May 22, 1945, to what date?

(Testimony of Willie B. James.)

A. Until April the—around April the 1st in '46.

Q. Then how much rent did you pay after that?

A. He cut down to \$8.50.

Q. How long did you pay \$8.50 per week?

A. I paid from '46 up until '47.

Q. What month of 1947?

A. In '47 around April. He said he carried me through the winter months and I would have to pay the winter months.

Q. During all this period of time you have testified to, how many people occupied that room?

A. Me alone, because he told my husband he couldn't live there, and he told me he couldn't live there; and he didn't live there.

Q. Did your husband live there at any time during the period of time? A. Two months.

Q. When were those two months? [24]

A. That was directly after I moved there; we separated.

Mr. Grancell: No further questions.

Cross-Examination

By Mr. Denton:

Q. Mrs. James, how do you establish now with certainty these particular dates when you moved into the property?

A. How did I establish that?

Q. Yes. A. I am supposed to.

Q. No. Please tell us how. A. How?

Q. Yes, that is right.

A. Whenever I moved to a place I think it is proper for me to put the date down when I move

(Testimony of Willie B. James.)

in and when I move out. I think it is still proper for me to put the date down when I move out, so that anything that comes up, that I can have some kind of memorandums to know what happened.

Q. Did you do that in this case?

A. Yes, I did.

Q. When did you record the date of your first moving out to the particular room we are talking about?

A. The particular room we are talking about now, where? What address are you speaking of?

Q. We are talking about the one room you lived in at 337 East 42nd Street. [25]

A. The room I rented, the rear room, rented it first and I paid \$10.00 back there.

Q. We are not asking that. We are asking when did you first put down——

A. 22nd of May.

Q. Where did you record that?

A. I moved in that back room the 22nd of May and Christmas Eve he fixed up the front room, up in the front, and moved me up in the front room.

Q. Where did you first write down the fact that you moved in?

The Court: Counsel, I am going to cut this short. Apparently there was a reduction of rent on April 1, 1946 to \$8.50.

Mr. Denton: We will stipulate to that, your Honor.

The Court: I am only going to allow for judgment for the return of the rent for the year preceding June 5th.

(Testimony of Willie B. James.)

Mr. Denton: I won't go into that concern, your Honor, now.

Q. (By Mr. Denton): You were living in this particular room, or you were living in one room of this particular structure there during the month of June, 1946, were you? A. Yes.

Q. Who else was living with you at that time in this room? A. Nobody. [26]

Q. You were divorced or separated from your husband?

A. Yes, I was separated, but I wasn't divorced.

Q. Your husband wasn't living there with you at any time from June, 1946 up until——

A. No.

Q. ——the date you removed therefrom during this year? A. No; that is right.

Q. Did anybody else live in that room with you, other than yourself, during that period of time?

A. No.

Mr. Denton: No further questions.

Mr. Grancell: That is all.

(Witness excused.)

Mr. Grancell: Mrs. Moore.

(No response.)

Mr. Grancell: Mrs. Sadler.

ELOISE SADLER

a witness called by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination

The Clerk: Will you state your name?

The Witness: Eloise Sadler.

Mr. Grancell: In view of the Court's statement, I won't go back any further. [27]

By Mr. Grancell:

Q. Did you occupy a room at 337 East 42nd Street in the City of Los Angeles between the 1st of June, 1946 and the 7th of March, 1947?

A. I did.

Q. How much rent did you pay for that room?

A. For that time I paid \$8.50.

Q. To whom did you pay the rent?

A. To Reverend Hogue.

Q. What room was that?

A. The rear room.

Q. Any number?

A. Well, it was No. 5, after they put the numbers on it?

Q. How many people occupied that room with you during that period of time?

A. Well, I have got the room for two, but my husband was in service so there was just myself.

Q. Between the 1st of June of 1946 and the 7th of March, 1947, you occupied that room alone?

A. He was in service during the first time, but he got out. I think he was there two months after-

(Testimony of Eloise Sadler.)

ward. He got out of service, I think it was in June. No, he got out of service in April in '47.

Q. April of 1947? [28] A. Yes.

Mr. Grancell: No further questions.

Cross-Examination

By Mr. Denton:

Q. When did your husband enter the service, Mrs. Sadler?

A. When did my husband enter the service?

Q. Yes.

A. Well, I wasn't even in Los Angeles when my husband entered the service.

Q. Was your husband in service on the 5th day of June, 1946?

A. Was he in service when.

Q. On the 5th day of June, 1946, was your husband in service then?

A. Yes, because he was in service then.

Q. Your husband, was he at home at any time at this particular address, other than the time he was released from service?

A. Well, not during the time I was paying \$8.50. He was there when I was paying \$10.00.

Q. We are talking about the date of June 5, 1946. A. No.

Q. Did anybody else live in that room during that time, other than yourself? A. No. [29]

Q. We are to understand, other than approximately a period of two months after your husband was discharged from the service, no one lived in there but yourself?

(Testimony of Eloise Sadler.)

A. No one lived in there but myself.

Mr. Denton: No further questions.

Mr. Grancell: That is all.

(Witness excused.)

TELA GRANT

a witness called by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination

The Clerk: Will you state your name?

The Witness: Tela Grant.

By Mr. Grancell:

Q. Mrs. Grant, did you rent a room at 337 East 42nd Street, Los Angeles? A. I did.

Q. What room was that?

A. Oh, I would say it was second from the front room.

Q. It is what?

A. A certain room from the front.

Q. A certain room from the front?

A. That is as near as I could state it.

The Court: We do not care.

Q. (By Mr. Grancell): Did you rent that from the 1st of [30] June, 1946 to March 13, 1947?

Mr. Denton: I think we ought to have the testimony from the witness if she knows. Let the witness give the date.

(Testimony of Tela Grant.)

Mr. Grancell: I will withdraw that question, if your Honor please.

The Court: When did you move out of the room?

The Witness: I moved out about the last of June of '47.

The Court: The last of June of 1947?

The Witness: Yes, this last June.

Q. (By Mr. Grancell): Were you occupying it on the 1st of June, 1946?

A. I certainly was.

Q. And continuously from that time on until June, 1947? A. Until this last June.

Q. How much rent did you pay for that room.

A. At first I paid \$10.00. And from there to \$8.50.

Q. During the period from the 1st of June, 1946, to the 1st of June, 1947, how much did you pay?

A. From June, 1946, to June, 1947, \$8.50.

Q. To whom did you pay that rent?

A. Reverend Hogue.

Mr. Grancell: No further questions.

Cross-Examination

By Mr. Denton:

Q. Did anyone else live with you in the room there? [31] A. My daughter.

Q. How old was the daughter? A. 18.

Q. Did anyone else other than you and your daughter live there? A. That is all.

Q. You and your daughter occupied this par-

(Testimony of Tela Grant.)

ticular room from June, 1946 up until the time you removed therefrom, is that true? A. Yes.

Mr. Denton: No further questions.

Mr. Grancell: That is all.

(Witness excused.)

Mr. Grancell: I would like to put Mrs. James back on the witness stand for a moment.

WILLIE B. JAMES

a witness recalled by and on behalf of the Government, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Grancell:

Q. Mrs. James, were you acquainted with Mrs. Artie Mae Moore? A. Yes.

Q. Do you know which room she occupied? [32]

A. The front room.

Q. Was she in there all the time from the 1st of June, 1946 on? A. Yes.

Q. Until about what date?

A. I don't know what date, because she was there when I moved there.

Q. When you moved there?

A. When I moved to 337 East 42nd Street.

Q. When you moved in or out?

A. Moved in, she was living there.

The Court: Did she move out before you did?

(Testimony of Willie B. James.)

The Witness: Yes.

The Court: How long before?

The Witness: Oh, about three weeks.

Q. (By Mr. Grancell): You moved out on what date? A. On the 7th.

Q. Of what? A. April.

Q. Do you know how much rent Mrs. Moore paid? A. \$10.00 a week.

Q. Was that during the period that you have testified to?

A. Yes, when I first moved there.

The Court: She had her rent reduced to \$8.50, the same as the rest. Is that correct? [33]

The Witness: Yes.

Q. (By Mr. Grancell): To whom did she pay this rent, if you know?

A. To Reverend Hogue.

Q. How many people occupied that room of Artie Mae Moore's? A. One.

Mr. Grancell: No further questions.

Cross-Examination

By Mr. Denton:

Q. How do you know about the matters which you have just testified to, Mrs. James?

A. Well, because I was living right there and adjoining rooms with her. She didn't have no husband there.

Q. We are asking you how you know it.

A. How I knew it? Because—I didn't see it.

Q. You heard it?

(Testimony of Willie B. James.)

A. I didn't see it. I didn't see nobody living there with her.

Q. We are talking about how you know Artie Mae Moore moved into the property on a certain date.

A. I didn't say I know what date she moved in. I say she was living there when I moved in.

Q. You know now she moved from there some three weeks before you did? [34]

A. Yes. I was living there at the time she moved away.

Q. How do you know about the amount of rent Mrs. Moore paid Reverend Hogue?

A. She left the money with me.

Q. How many times?

A. A number of times.

The Court: Your own client testified he reduced the rent to \$8.50. He does not know the date.

Mr. Denton: There is no question about that. We have a witness here that appears to me not to be too friendly. We have a right, I believe, to inquire into the good veracity of this witness in testifying to other things. He said generally he did reduce the rent in all cases. We don't have the exact dates.

The Court: You must remember it was the duty of your client to keep records.

Mr. Denton: We realize that. It isn't incumbent on us to come in here to this Court and prove the government's case. We haven't put on any defense yet.

(Testimony of Willie B. James.)

The Court: Go ahead. I am willing to listen all afternoon.

Mr. Denton: No. I won't take any more time of the Court, but I do want to find out from this witness.

Q. (By Mr. Denton): You said you paid the rent for this Artie Mae Moore some several times?

A. Yes.

Q. How many times, about?

A. I don't know how many times; plenty of times.

Q. More than twice?

A. Yes, more than twice.

Q. Six times? A. More than twice.

Q. As many as six times?

A. I couldn't say how many times. I say it was more than twice.

Q. I am asking you was it more than six times?

The Court: You can tell if you know.

The Witness: Yes, it was more than six times.

Q. (By Mr. Denton): The fact you testified that Artie Mae Moore paid more than \$8.50 is based on the fact you paid that money to Reverend Hogue? A. That is right.

Mr. Denton: No further questions.

(Witness excused.)

Mr. Grancell: Plaintiff rests.

Mr. Denton: We will call Reverend Hogue to the stand. [36]

E. H. HOGUE

a witness recalled by and on behalf of the defendant, having been previously sworn, was examined and testified further as follows:

Direct Examination

By Mr. Denton:

Q. Reverend Hogue, from the 5th day of June of 1946, up until the 7th day of April, 1947, as far as you personally know has anybody else lived in this room but Mrs. James, one of the witnesses who testified here this afternoon? Was anyone else living in the room with her during that period of time?

A. Mr. James lived with her. I don't say he was there every day. He lived with her just a day or two before she moved out. He was in there arguing with me that it was his money that paid the rent.

Q. During that full period of time?

A. Sure; Mr. James was there.

Q. As to Artie Mae Moore, from the 5th day of June, 1946, until the 8th day of March of 1947, as far as you personally know, did anyone else, other than Artie Mae Moore live in that particular room?

A. None but her husband, and sometimes when her husband wasn't there, sometimes, somebody else stayed there. I don't know who it was; once in a while. I know somebody else stayed there. I don't know his name. Her husband was on the road [37] and when he came in he stayed there.

(Testimony of E. H. Hogue.)

Q. You tell us now you saw some male individual there, other than her husband? A. I did.

Q. When you say he stayed there, what do you mean?

A. I guess he stayed there all night; he was there.

Q. We don't want you to guess. Tell us what you know.

A. He was there at night and he was there in the morning.

Q. Did you see him more than once?

A. Yes, I seen him more than once.

Q. As to Mrs. Eloise Sadler, from the 5th day of June, 1946, up until the 7th of March, 1947, as far as you personally know, did anyone occupy this room in your premises that was then being occupied by Mrs. Sadler, other than this particular person?

A. Nothing but her husband. She rented this room for her and her husband. He wasn't there all the time.

Q. I am asking if more than Mrs. Eloise Sadler was in that room? A. Mrs. Sadler.

Q. During the entire period I have indicated?

A. Yes.

Q. Is that right? A. Yes.

Mr. Denton: Your Honor, we already have the fact that [38] Mrs. Tela Grant's daughter lived with her there.

Q. (By Mr. Denton): Other than the registration slip that the government has introduced here and the one that has been introduced on your behalf,

(Testimony of E. H. Hogue.)

did you receive at any time any other information from the Los Angeles Rental Director as to what you were supposed to charge in the way of rent, other than those which appear in those documents in evidence? A. I did not.

Q. That is everything you received?

A. Yes.

Mr. Denton: No further questions.

The Court: You are still charging \$8.50 a week for the rent for these rooms?

The Witness: Yes.

Mr. Denton: The charges you are making, \$8.50 now, is more than one person in each room?

The Witness: Oh, yes.

Mr. Grancell: You still haven't filed an application for an increase of rent, have you?

Mr. Denton: We will stipulate none has been filed.

Mr. Grancell: No further questions.

Mr. Denton: Your Honor, would counsel want to stipulate that if we called Mrs. Hogue, the wife of the defendant here, for the purpose of proving occupancy by more than one tenant in each of these rooms, that if we called her her testimony [39] would be substantially as that given by the defendant, so far as to the number of people occupying these particular rooms in that period of time? Will counsel stipulate if Mrs. Hogue were called she would testify in the same manner as the defendant has, as to the occupants for that period of time?

(Testimony of E. H. Hogue.)

Mr. Grancell: So stipulated, your Honor.

(Witness excused.)

Mr. Denton: We have nothing more, your Honor.

The Court: I am going to direct a refund for all rents collected in excess of the \$5.00 a week after June 5, 1946, and a like amount as penalty. Also an injunction restraining him from charging more than \$5.00 a week until he gets an order from the Rent Director to charge more. Prepare findings within five days.

Mr. Grancell: Yes. You waive findings of fact and conclusions of law?

Mr. Denton: No.

Mr. Grancell: I will draw them and submit them as fast as we can get them in here.

[Endorsed]: Filed April 12, 1947.

[Endorsed]: No. 11897. United States Circuit Court of Appeals for the Ninth Circuit. Lillie T. Hogue and Elias Hogue, Appellants, vs. Tighe E. Woods, Housing Expediter, Office of the Housing Expediter, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed April 15, 1948.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Ap-
peals for the Ninth Circuit.

